

GALLAGHER & KENNEDY

P.A.

LAW OFFICES

MICHAEL M. GRANT
DIRECT DIAL: (602) 530-8291
E-MAIL: MMG@GKNET.COM

ORIGINAL

HAND DELIVERED

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

MEETING AGENDA ITEM

RECEIVED

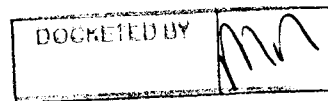
2009 JAN -5 P 1:59

AZ CORP COMMISSION
DOCKET CONTROL

January 5, 2009

Arizona Corporation Commission
DOCKETED

JAN - 5 2009



0000093066

2575 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
PHONE: (602) 530-8000
FAX: (602) 530-8500
WWW.GKNET.COM

Re: *Garkane Energy Cooperative, Inc. ("Garkane") and Dixie-Escalante Rural Electric Association, Inc. ("Dixie-Escalante") (collectively, the "Cooperatives") Comments on the Staff Report and Recommended Order on the Cooperatives' Request for a Waiver of the Time-Based Rate Schedules Filing Requirement dated December 19, 2008; Docket Nos. E-01891A-08-0061 and E-02044A-08-0061*

Dear Sir or Madam:

Garkane and Dixie-Escalante are non-profit, customer-controlled distribution cooperatives which operate primarily in the state of Utah. As the Staff Report states, only about 6% and 15%, respectively, of their customers are located in this state and reside near the Arizona/Utah border. Both Cooperatives' total annual MWh sales are considerably less than the 500,000 MWh exemption level set forth in the provisions of the 2005 Energy Policy Act which requires—for utilities much larger than the Cooperatives—consideration of certain PURPA standards, including time-based ("TOU") rates.

Because, among other things, the Cooperatives are not implementing TOU rates in Utah where the vast majority of their customers are located and the costs of implementation are very large, on February 1, 2008, they filed an Application requesting that this Commission waive the requirement of Decision No. 69736 requiring them to do so in Arizona. For convenience, a copy of the Application which contains more information concerning the request is attached as Exhibit A.

In its December 19 Report, the Staff agrees that it is difficult for Garkane and Dixie-Escalante to design effective TOU rates because the Cooperatives do not purchase energy at wholesale on a time-differentiated basis. Further, Staff also agrees that implementation of TOU rates will be costly—for example, in one scenario, upgrade costs of \$100,000 for each system are expected, plus additional meter costs (Staff Report, page 3). The Cooperatives have very few Arizona customers over which to spread and recover those costs. Nonetheless, Staff recommends that only a temporary waiver of the TOU requirement be granted and the Cooperatives be required to perform additional studies and analyses on this issue this year.

Given these circumstances, the Cooperatives do not believe that further study of this issue should be required. The study process will not only be expensive and time-consuming, given what Garkane and Dixie-Escalante know about their customer base, power arrangements, metering systems and meter costs, further study is also not likely to produce a different conclusion on TOU feasibility. Therefore, Garkane and Dixie-Escalante request that the Commission grant a permanent waiver as requested in their application.

However, if the Commission feels further study should be performed and only a temporary waiver should be granted, the Cooperatives would suggest one of two amendments to the Staff's Recommended Order:

1. At page 9, line 16, the Recommended Order states that the temporary waiver will expire on "January 31, 2009." The "2009" reference is a typographical error and should be changed to read "January 31, 2010" to be consistent with Finding 14 at page 6, line 8, which states that the temporary waiver will expire "January 31, 2010."

2. Alternatively, the Cooperatives would request that the temporary waiver extend to at least April 30, 2010. Assuming the conclusion is reached that TOU rates should not be offered, the detailed data supporting that conclusion is due one year after the date of this order, i.e., January 2010. Extending the temporary waiver until the end of April next year will give the Commission, Staff and Cooperatives time to discuss and analyze the filed data and decide upon an appropriate course of action.

The Staff and Commission's attention to this matter is appreciated.

Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:

Michael M. Grant

MMG/plp
10703-1/1975199
Attachment

cc w/attachment (delivered): Commissioner Kristin K. Mayes
Commissioner Gary Pierce
Commissioner Sandra D. Kennedy
Commissioner Paul Newman
Commissioner Bob Stump
William Musgrove, Utilities Division

Original and 15 copies filed with Docket
Control this 5th day of January, 2009.

EXHIBIT A

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

APR 11 - 1 P M '08

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE JOINT APPLICATION
OF GARKANE ENERGY COOPERATIVE, INC.
AND DIXIE-ESCALANTE RURAL ELECTRIC
ASSOCIATION, INC. FOR A WAIVER OF THE
REQUIREMENT OF DECISION NO. 69736 FOR
IMPLEMENTATION OF TIME-BASED RATE
SCHEDULES

Docket Nos. E-01891A-08- 0061
E-02044A-08- 0061

APPLICATION

Garkane Energy Cooperative, Inc. ("Garkane") and Dixie-Escalante Rural Electric
Association, Inc. ("Dixie") (collectively, the "Cooperatives"), in support of their Application,
state as follows:

1. Garkane is a member-owned Utah, non-profit cooperative association which
supplies electricity to its members—most of which are located in the state of Utah. As of 2007,
Garkane had approximately 10,700 total customers. Only about 690 of those customers are
located in Arizona and are situated primarily north of the Grand Canyon in the vicinity of
Fredonia and Colorado City, Arizona.

2. Dixie is also a member-owned Utah, non-profit cooperative association. It has
about 13,800 customers. Only about 2,100 of those customers reside in Arizona. They are
located in and around the town of Littlefield in the extreme northwest corner of the state.

3. Both Cooperatives' annual MWh sales are considerably less than the
500,000 MWh exemption level set forth in the provisions of the Energy Policy Act of 2005

1 pertaining to consideration of certain PURPA standards. In 2007, Garkane sold approximately
2 183,000 MWh system-wide, with about 14,300 MWh of those sales in Arizona. Dixie's sales for
3 2007 totaled approximately 351,000 MWh, with about 31,000 MWh of those sales in Arizona.

4 4. Both Cooperatives are all-requirements members of the Deseret Generation &
5 Transmission Cooperative ("Deseret") and, by contract, are obligated to take all of their power
6 and energy at wholesale from Deseret. The Cooperatives are billed a demand charge based upon
7 each cooperative's load measured at the time of Deseret's Coincident System Peak. All energy
8 is purchased from Deseret at a fixed, single-block rate. There is no differentiation in the energy
9 rate charged the Cooperatives based upon the time of day or month of the year the energy is
10 purchased from Deseret.

11 5. In Decision No. 69736, the Commission approved a requirement that, by January
12 of 2009, each electric distribution utility, such as the Cooperatives, offer "a time-based rate
13 schedule under which the rate charged varies during different time periods and reflects the
14 variance, if any, in the utility's costs of... purchasing electricity at the wholesale level."
15 (Decision No. 69736, First Ordering Paragraph and Finding of Fact No. 22.) The Cooperatives
16 request that the Commission waive this requirement given their circumstances.

17 6. The Cooperatives are not implementing time-based rates in Utah, where the
18 considerable majority of their customers are located. They have concluded that time-based rates
19 are not cost effective for either the customer or cooperative—primarily because the
20 Cooperatives' energy rates, as explained previously, are not time differentiated at the wholesale
21 level, as well as the high metering costs associated with implementation of such rates.


22 7. Although the Cooperatives will study "smart metering" as required by Decision
23 No. 69736, it is anticipated that the costs for such metering, which is not used on either of the
24

1 Cooperatives' systems currently, will not be feasible and cost effective. Obviously, it would be
2 very expensive to institute time-based rates (and install "smart meters") only for the small
3 number of the Cooperatives' customers which are served in Arizona. Such rates would also be
4 difficult to design—given the fact that the Cooperatives' wholesale energy rates are not time
5 differentiated. For these reasons, the Cooperatives' request for a waiver order as to this
6 requirement is appropriate.

7 WHEREFORE, having fully stated their Joint Application, Garkane and Dixie request
8 that the Commission enter its Order waiving as to them the requirement of Decision No. 69736
9 concerning the implementation of time-based rate schedules.

10 RESPECTFULLY SUBMITTED this 1st day of February, 2008.

11 GALLAGHER & KENNEDY, P.A.

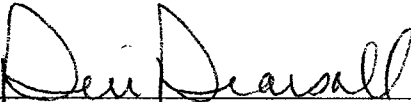
12
13 By 
14 Michael M. Grant
15 2575 East Camelback Road
16 Phoenix, Arizona 85016-9225
Attorneys for Garkane Energy Cooperative, Inc.
and Dixie-Escalante Rural Electric
Association, Inc.

17 **Original and 15 copies** filed this
18 1st day of February, 2008, with:

19 Docket Control
20 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 **Copy** of the foregoing delivered
2 this 1st day of February, 2008, to:

3 Barbara Keene
4 Utilities Division
5 Arizona Corporation Commission
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

10703-1/10593-1/1749012